EXHIBIT A
Law No. 178

(S. B. 1437)

(No. 178-2010)

(Approved December 1, 2010)

AN ACT

To amend subsection (l) of Section 6145 of Subchapter C of Act No. 120 of October 31, 1994, as amended, known as the "Puerto Rico Internal Revenue Code of 1994," in order to increase from ten percent (10%) to twenty-five percent (25%) the segregation in a special account of the amounts that the Government of the United States reimburses to the Treasury of the Government of Puerto Rico on account of the tax on rum exported in bulk from Puerto Rico to the United States and sold to consumers in the United States; authorize a subsequent forty-six percent (46%) increase in said segregation; provide the manner in which said subsequent increase shall be authorized; allow for the use of funds thus segregated to grant incentives for production, marketing, infrastructure investment, and support to the Puerto Rican rum industry; and for other related purposes.

STATEMENT OF MOTIVES

Local rum production has been a prolific Puerto Rican industry for more than a century. At present, Puerto Rico produces approximately 70% of all the rum consumed in the United States, and the quality of such product is globally recognized. The Rum Cover-Over Program was created by the Federal Government in 1917 to help territories to provide for the general wellbeing of their residents and their broad economic development. Certainly, rum produced in Puerto Rico and the Virgin Islands is subject to the same excise of \$13.50 per gallon. Under the current Federal laws, the cap that the U. S. Treasury can cover over to Puerto Rico and the Virgin Islands is \$10.50 per gallon. However, since 1999, Congress has increased the cover-over cap up to \$13.25 per gallon through

supplementary special legislation. In Fiscal Year 2009, Federal excise taxes amounting to $434,100,000 were covered over to Puerto Rico. Said amount constituted 5.6% of the net income of the General Fund for such fiscal year.

Annually, Puerto Rico uses roughly 94% of the amount thus covered over to foster the Island's economic development. In Fiscal Year 2009, $17.59 million was used for land conservation and environmental protection, $5 million for the Science, Technology, and Research Trust, and the remainder $395.7 million was transferred to the General Fund to finance the regular expenditures and capital improvements of the Government of Puerto Rico. In addition, the Government of Puerto Rico uses 6% of the amount thus covered over to incentivize the local rum industry. Such subsidy mainly provides support for product marketing and promotion. In Fiscal Year 2009, the incentives granted amounted to $26.93 million. Since Puerto Rican rum exports to the United States totaled 28,246,757 proof gallons, incentives granted equaled $0.95 per proof gallon. That is, Puerto Rico has been very responsible in using these funds for economic development purposes, so as to be consistent with the objectives of the Federal program.

Unfortunately, the Virgin Islands developed a series of strategies which the former administration failed to address efficiently. Since 2007, the Virgin Islands have been supporting their rum industry with incentive levels far superior to those of Puerto Rico ($2.50 per proof gallon as opposed to $0.95 per proof gallon in Puerto Rico). However, recent initiatives have been more aggressive and are aimed at transferring rum companies to their jurisdiction under a questionable scheme that is inconsistent with the public interest that originated the program and could even endanger its subsistence.

On June 17, 2008, the Virgin Islands entered into an agreement with one of the leading rum producers in the world which, until then, had been using rum produced in bulk in Puerto Rico to manufacture its products. Starting in 2012, it is estimated that this agreement alone will cause an annual $136 million cover-over loss, equal to 31.4% of the income earned by Puerto Rico on account of this program, thus endangering its subsistence. As a result of such actions by the government of the Virgin Islands, estimates indicate that more than $11,900,000,000 shall be covered over to them during Fiscal Years 2012 through 2038 on account of the cover-over of rum produced therein. This represents an annual average of $441,800, 000. Of these amounts, an estimated 40.3% of the total rum cover-over that the Virgin Islands will receive will be transferred to such producers through subsidies and incentives, according to the agreements that the Virgin Islands have entered into as of now with rum producing companies. In some cases, the incentives and subsidies granted may represent 46% of the rum cover-over, thus providing an incentive of more than $6 per proof gallon, whereas the current incentives offered in Puerto Rico are less than $1 per proof gallon.

In view of this situation, the Government of Puerto Rico is firmly committed to take the necessary steps to preserve the rum producing industry of the Island and, most importantly, to defend thousands of direct and indirect jobs generated by such industry. The significant contributions that this industry makes to our socioeconomic development are vested with high public interest. The local rum production is an important industry to our economy, because it directly and indirectly employs thousands of Puerto Ricans and generates millions of dollars in local taxes.

The implementation of the strategies of the government of the Virgin Islands shall cause a terrible distortion of the objectives of the Rum Cover-Over Program. Moreover, if the Government of Puerto Rico fails to take action, such strategy may cause the total collapse of the rum industry in the Island, as well as the loss of $300,000,000 covered over annually, which have not yet been affected by the actions of the Virgin Islands. Losing access to those funds and facing the collapse of our local rum industry in these tough economic times shall bring about painful and lasting consequences.

The Government of Puerto Rico cannot remain silent until the Federal Government acts and stops the Virgin Islands' strategies. It must take actions that promote the leveling of opportunities and fair competition for all, as provided in this Act.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1. – Subsection (l) of Section 6145 of Subchapter C of Act No. 120 of October 31, 1994, as amended, is hereby amended to read as follows:

"Section 6145. – Powers of the Secretary. –

(a) …

…

(l) Disposition of the Federal Tax Collected on Puerto Rican Rum Shipped to the United States. –

(1) The Secretary is hereby directed to segregate in a Special Account, up to twenty-five percent (25%) of the amounts that the Government of the United States covers over to the Treasury of the Commonwealth of Puerto Rico for the tax on rum exported in bulk from Puerto Rico to the United States and sold to consumers in the United States. Provided, that the Governor of Puerto Rico, with the previous advise of the Secretary and the Government Development Bank for Puerto Rico, may increase such cap up to the amount of forty-six percent

(46%), through an Executive Order to such effect, after December 31, 2011, whenever said increase becomes necessary or convenient to allow rum producers in Puerto Rico to compete in foreign markets under similar conditions with their competitors in other U.S. jurisdictions. Notwithstanding the foregoing, the Treasury of the Commonwealth of Puerto Rico shall never retain less than fifty-four percent (54%) of the amounts that the Government of the United States covers over on account of the tax on rum transported in bulk from Puerto Rico to the United States and sold to consumers therein.

(2) The segregated amount of such cover-over, as provided herein, shall be available to the State Treasury to incentive the production and promotion of Puerto Rican rum, including, but not limited to the promotion and marketing of Puerto Rican rum in foreign markets, the investment in agricultural, industrial, and commercial projects necessary for the development of the rum industry in Puerto Rico, the support of participants in the local rum industry by granting production, marketing, and promotion, and construction and infrastructure improvement incentives, including incentives to subsidiaries or affiliates of those participants, to use for the benefit of the local industry so as to increase the funds appropriated to such effect by the Government of the Commonwealth of Puerto Rico. Provided, that the authorization to reimburse such funds shall be approved by the Governor, or the official on which he/she delegates such task, through an order of payment and an executive budget. Provided, further, that quarterly advances may be made of the amounts to be segregated from the estimated revenues on account of cover-overs. At the end of the fiscal year, the Secretary shall carry out a final liquidation of the amount corresponding to such executive budget based on actual revenues and the advances made during the fiscal year, and deposit the

remainder in the Special Account, if any, as well as any remaining, in the General Fund. When advances exceed actual payments, the remainder shall be retained from the amounts to be segregated on the next fiscal year.

(3) No tax, license fee, excise tax, or any other charge established by the laws of the Commonwealth of Puerto Rico shall be applied to the incentives granted under paragraph (l)(2) of this Section.

(4) The Governor of Puerto Rico, through an Executive Order to such effect, may designate the agencies and instrumentalities of the Government of Puerto Rico that he/she deems necessary to implement the purposes, programs, and activities provided in this subsection (l).

(5) The Government Development Bank for Puerto Rico and any of its subsidiaries and affiliates are hereby empowered to incur obligations and/or issue bonds in order to finance the implementation of the purposes, programs, and activities provided in subsection (l) of Section 6145 of Subchapter C of Act No. 120 of October 31, 1994, as amended, and to pledge the funds segregated under said subsection (l) to guarantee the payment of the principal and interest of said obligations and/or bonds. Said segregated funds may be used for the payment of interest and the amortization of the obligations and/or bonds authorized herein.

(m) …"

Section (2). – The Government Development Bank for Puerto Rico, the Department of the Treasury, the Department of Economic Development and Commerce, the Puerto Rico Industrial Development Company, and the Department of Agriculture are hereby empowered to carry out all those acts and transactions, to appear, and/or to execute any private or public instruments or documents as are convenient and necessary to implement the purposes of subsection (l) of Section 6145 of Subchapter C of Act No. 120 of October 31, 1994, as amended.

Section 3. – None of the provisions herein shall in any way affect the provisions of Act No. 119 of July 8, 2006.

Section 4. – This Act, the amendments provided herein, and any activities, programs, incentives, or agreements executed under the provisions of this Act or subsection (l) of Section 6145 of Subchapter C of Act No. 120 of October 31, 1994, as amended, shall be construed in accordance with any applicable Federal Law in order to prevent any conflict therewith.

Section 5. – This Act shall take effect immediately after its approval and its effect shall be retroactive to July 1, 2010.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 178-2010 (S. B. 1437)** of the **4th Session of the 16th Legislature** of Puerto Rico:

AN ACT to amend subsection (l) of Section 6145 of Subchapter C of Act No. 120 of October 31, 1994, as amended, known as the "Puerto Rico Internal Revenue Code of 1994," in order to increase from ten percent (10%) to twenty-five percent (25%) the segregation in a special account of the amounts that the Government of the United States reimburses to the Treasury of the Government of Puerto Rico on account of the tax on rum exported in bulk from Puerto Rico to the United States and sold to consumers in the United States; authorize a subsequent forty-six percent (46%) increase in said segregation; provide the manner in which said subsequent increase shall be authorized; allow for the use of funds thus segregated to grant incentives for production, marketing, infrastructure investment, and support to the Puerto Rican rum industry; and for other related purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on the 15th day of March, 2013.

Juan Luis Martínez Martínez
Director Interino